IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWELFTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION No.12185 of 2004

Between:

1. M/s Sree Veera Venkata Satyanarayana Rice Mill

a partnership firm rep by its partner Sri Gade Satyanarayana
S/o. GVSV Raghavulu R/o. Palakole, West Godavari District.
2 Sri Gade Satyanarayana S/o. GVSV Raghavulu
Managing Partner, M/s SVVS Rice Mill, Poolapalli,

R/o.Palakole, West Godavari District.

..... PETITIONERS

AND

1 State Bank of India, rep by its Branch Manager,

Poolapalli Branch (Palakol Mandal)
West Godavari District-534 261.
2 Recovery Officer, Debt Recovery Tribunal, Visakhapatnam.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction and more particularly one in the nature of writ of Mandamus declaring the action of the 1st respondent in proceeding with the auction of mortgaged properties of the petitioners in pursuance of the order made in O.A.No.442 of 2002 in R.P.No.117 of 2003 dated 2-6-2004 of the 2nd respondent pending disposal of the Appeal i.e. M.A.No.100 of 2004 before the Debts Recovery Appellate Tribunal at Chennai as being illegal, arbitrary, unconstitutional and

without jurisdiction.

Counsel for the Petitioners: Mr. P.A.V.BALAPRASAD

Counsel for the Respondents: None appeared

The Court at the admission stage made the following :

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JUDGMENT

In spite of service, nobody has put in appearance for respondents.

Grievance of the petitioners in this writ petition is that in O.A.No.442 of 2002 on the file of Debts Recovery Tribunal, Visakhapatnam, they had filed an application praying for setting aside *ex parte* decree, which was rejected on 30-4-2004; against which, M.A.No.100 of 2004 was filed before the Debts Recovery Appellate Tribunal at Chennai. It is still pending consideration. Appeal has not so far been heard, as the earlier Presiding Officer has since expired and no Presiding Officer is posted till date. Taking undue advantage of the fact that the petitioners have not been able to obtain any stay order, 1st respondent sought execution of the *ex parte* decree. Since there is no remedy available, petitioners approached this Court.

On 15-7-2004, we had stayed the public auction scheduled for 19-7-2004. Appeal of the petitioners is still pending with the Debts Recovery Appellate Tribunal, Chennai. Since there is no representation by the respondents, we allow the writ petition with a direction that auction shall not take place till the application for stay is disposed of by the Debts Recovery Appellate Tribunal, Chennai. No costs.

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(**DEVENDER GUPTA, CJ**)

August 12, 2004

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(**C.V. RAMULU,J**)

prk

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 Branch Manager, State Bank of India

Poolapalli Branch (Palakol Mandal)
West Godavari District-534 261.

2 Recovery Officer, Debt Recovery Tribunal, Visakhapatnam.

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